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**TO: Economic Support Supervisors
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**FROM: Amy Mendel-Clemens
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BHCE/BWP OPERATIONS MEMO

No.: 03-14

Date: 02/28/2003

Non W-2 ☐ W-2 ☐ CC ☒

PRIORITY: HIGH

**SUBJECT: FAMILY DAY CARE CERTIFICATION CHANGES -CAREGIVER LAW
INTERPRETATION AND CLARIFICATION OF THE LANDLORD PERMISSION
RULE**

EFFECTIVE DATE

March 15, 2003 for new certification applicants, approved certified providers, and school age programs that are applying for re-certification.

PURPOSE

This memo provides clarification on the following policies:

1. Revised interpretation of the Caregiver Law.
2. Clarification of the landlord permission requirement for in-home child cares providers.

BACKGROUND

The Department of Health and Family Services (DHFS) Legal Counsel has revised their interpretation of the Caregiver Law, regarding background checks for non-client residents in day care settings. This memo also clarifies the Office of Child Care interpretation of the landlord permission for in-home providers.

POLICY

CAREGIVER LAW INTERPRETATION

Previous interpretation required background checks be completed on all non-client residents as soon as the resident turned 12 years of age. The new interpretation changes the following:

A Background Information Disclosure (BID) form must be completed by all non-client residents who are **10 years of age** and above, prior to granting certification and at certification renewal. A caregiver background check is not required for these individuals unless:

- The BID form indicates that a juvenile has been adjudicated, delinquent, or has a pending charge or conviction, a complete background check must be conducted.
- The minor non-client resident works in the day care setting (as an assistant, helper, etc) a complete background check must be conducted.

NOTE ➤ There is no change to the Child Protective Services (CPS) check. According to DWD 55.04(7)(b) 2, "Required procedures. A county or tribal agency shall (f) Check files of child abuse and neglect findings, or pending investigation related to applicants, employees, and prospective employees, including substitutes, and for individuals living in the applicant's home." This check must be completed for new applications, and again at the time of certification renewal.

LANDLORD PERMISSION CLARIFICATION

According to DWD 55.08(2)(o), "If child care is provided in a rental property, the provider shall obtain permission from her/his landlord to operate a child care business." This rule does not pertain to in-home certifications, when the care is done in the child's home. The reason behind the landlord notification is to encourage communication between the landlord and the certified provider (who is operating her/his business in a rental property) in regards to liability concerns in day care settings. A certified provider who operates her/his business from her/his home is considered a self-employed business person. If the provider does not have a separate liability insurance policy that covers possible damages caused by the business, the landlord may become liable for the damages. The situation is different in in-home settings, where the provider is not a self-employed business person, but an employee of the parent.

CONTACTS

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BHCE CARES Information & Problem Resolution Center

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Note: Email contacts are preferred. Thank you.